

Appl. No. 10/069,763

REMARKS

The Examiner has issued a Restriction contending that the groups of inventions embodied in the instant application are not so linked as to form a single general inventive concept under PCT Rule 13.1. The Examiner alleged that two inventions are present in the instant application. Claims 1-5 are pending in the present application.

The Examiner has required election in the present application between:

Group I, contains claims 1-3, which are drawn to a method for identifying an individual at risk for vascular and cancer disease; and

Group II, claims 4 and 5, are drawn to a kit comprising a means for determining PGI concentration and means for determining homocysteine concentration.

The Examiner contends that the inventions listed Group I and II do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical features required by PCT Rule 13.2. Specifically, the Examiner contends that because the Pettersson et al. publication teaches how to determine the concentration of pepsinogen I and homocysteine, Group I does not define a

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contribution over the prior art. The Examiner uses the same reference to support a conclusion that a means for determining PGI concentration and homocysteine concentration also does not define a contribution over the prior art. Applicants respectfully traverse.

Applicants first point out that the invention is directed to a method for identifying an individual at risk for vascular and cancer disease, not a method of determining pepsinogen I and homocysteine levels or means for determining those levels. The invention as a whole does constitute a contribution over the prior art. As a consequence, Applicants respectfully request reconsideration and removal of the restriction.

In order to be fully compliant with 37 CFR 1.143, however, Applicants elect with traverse to prosecute claims 1-3 (Group I). Applicants reserve the right to pursue the claims of Group II in a divisional application if desired.

In view of the above, Applicants respectfully request rejoining the claims of Group I and Group II for prosecution.

In view of the above remarks, all of the claims remaining in the case are submitted as defining non-obvious, patentable subject matter.

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Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson (Reg. No. 30,330) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

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LRS/SWG/sbp  
0933-0181P

Respectfully submitted,

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